

C. V. V. asks the Utah Labor Commission to review the Administrative Law Judge's decision regarding Mr. V.'s claim for permanent partial disability benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12, Utah Code Ann. §34A-2-801(3) and Utah Admin. Code R602-2-1.M.

ISSUES PRESENTED

In his motion for review, Mr. V. contends he is entitled to additional permanent partial disability compensation. However, before considering the merits of Mr. V.'s argument, the Commission must first determine whether Mr. V. filed his motion for review within the 30 day time limit imposed by the Utah Administrative Procedures Act ("UAPA"; Title 63, Chapter 46b, Utah Code Ann.).

FINDINGS OF FACT

The ALJ issued his decision on December 11, 2001. That same day, a copy of the ALJ's decision was mailed to Mr. V. and his attorney at their correct mailing addresses. On January 11, 2002, the Labor Commission received Mr. V.'s motion for review.

DISCUSSION AND CONCLUSIONS OF LAW

Section 63-46b-12 of UAPA and §34A-2-801(2) of the Act allow a party dissatisfied with an ALJ's decision 30 days in which to file a motion for further agency review. This 30 day filing deadline is jurisdictional. Maverik v. Industrial Commission, 860 P.2d 944 (Utah App. 1993).

In this case, the ALJ's decision was issued on December 11, 2001. In order for the Commission to obtain jurisdiction to review the ALJ's decision, Mr. V.'s motion for review had to be actually received by the Commission no later than the 5 p.m. on January 10, 2002. In fact, the motion for review was not received until January 11, 2002. It was, therefore, filed one day after the appeal period had expired. Because Mr. V. did not file his motion for review within the 30 day period allowed by law, the Commission lacks jurisdiction to consider this matter further.

ORDER

The Labor Commission dismisses Mr. V.'s motion for review as untimely. The prior decision of the ALJ remains in effect. It is so ordered.

Dated this 21st day of March, 2002.

R. Lee Ellertson, Commissioner